

Message

From: Anderson, Danielle [Anderson.Danielle@epa.gov]
Sent: 11/6/2020 7:57:12 PM
To: Wade, Alexis [Wade.Alexis@epa.gov]
CC: Justice, JamesR [Justice.JamesR@epa.gov]; Gallagher, Kathryn [Gallagher.Kathryn@epa.gov]; Buffo, Corey [Buffo.Corey@epa.gov]
Subject: FW: OW review by noon Nov 9 Interagency ESA Review: "Endangered Species Act Draft Consultation Handbook: Procedures for Conducting Section 7 Consultations and Conferences"
Attachments: Draft Section 7 Handbook DOC 10_08_2020 Clean_Notes_OST 11.6.20.docx

Alexis,

Jim and I have completed our review of the draft update to the ESA consultation handbook. I wanted to share our initial comments with you in case you wanted to weigh in. We intend to vet these with Deborah on Monday and submit to OW/IO per their Monday, Nov 9th noon deadline request.

My comments are on pages 46, 50, 53, 62. The comments pertain to **Ex. 5 Deliberative Process (DP)**

Ex. 5 Deliberative Process (DP)

Jim's comment on p. 84: Suggest **Ex. 5 Deliberative Process (DP)**

Appreciate you taking a look if you get a chance and also relaying OGC's comments on the draft once you have those compiled. Would be helpful to stay coordinated through this process.

Jim/Kathryn – I was intending to send Erica Weyer an email on Monday morning to ask for her assistance re; obtaining Deborah's review of these comments. Please let me know if that sounds acceptable to you or if you would prefer to handle it differently through Betsy and Sara.

Thanks!
Danielle

From: Anderson, Danielle
Sent: Tuesday, November 3, 2020 3:08 PM
To: JamesR Justice (Justice.JamesR@epa.gov) <Justice.JamesR@epa.gov>; Gallagher, Kathryn <Gallagher.Kathryn@epa.gov>
Cc: Buffo, Corey <Buffo.Corey@epa.gov>
Subject: FW: OW review by noon Nov 9 Interagency ESA Review: "Endangered Species Act Draft Consultation Handbook: Procedures for Conducting Section 7 Consultations and Conferences"
Importance: High

Hi! Hope you both are doing well. I just received the email below and attachments. Have you all already received this? The deadline to provide any edits/comments is this coming Monday (and needs to be vetted by Deborah before anything is sent forward). I'm trying to understand if the scope of interagency comment is limited to updates to reflect the updated 2019 regs or if it's open to anything in the Handbook. I plan to review this week (it's 160 pages) but wanted to be sure to coordinate with HECD if there are things SHPD identifies for comment/editing.

Thanks!
Danielle

From: Barash, Shari <Barash.Shari@epa.gov>
Sent: Tuesday, November 3, 2020 2:33 PM
To: Buffo, Corey <Buffo.Corey@epa.gov>; Anderson, Danielle <Anderson.Danielle@epa.gov>; Soo-Hoo, Mimi <Soo-Hoo.Mimi@epa.gov>
Cc: Keating, Jim <Keating.Jim@epa.gov>
Subject: FW: OW review by noon Nov 9 Interagency ESA Review: "Endangered Species Act Draft Consultation Handbook: Procedures for Conducting Section 7 Consultations and Conferences"
Importance: High

Corey,
I am assuming your folks are on top of this.
Shari

Shari Z. Barash
Chief
National Branch
Office of Water
US EPA
Washington, DC
202-566-0996
barash.shari@epa.gov

From: Robiou, Grace <Robiou.Grace@epa.gov>
Sent: Tuesday, November 3, 2020 11:13 AM
To: Barash, Shari <Barash.Shari@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>; Keating, Jim <Keating.Jim@epa.gov>
Subject: FW: OW review by noon Nov 9 Interagency ESA Review: "Endangered Species Act Draft Consultation Handbook: Procedures for Conducting Section 7 Consultations and Conferences"
Importance: High

Folks, I want to make sure you see this.

From: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>
Sent: Monday, November 02, 2020 1:19 PM
To: McDavit, Michael W. <Mcdavit.Michael@epa.gov>; Robiou, Grace <Robiou.Grace@epa.gov>; Kaiser, Russell <Kaiser.Russell@epa.gov>
Subject: FW: OW review by noon Nov 9 Interagency ESA Review: "Endangered Species Act Draft Consultation Handbook: Procedures for Conducting Section 7 Consultations and Conferences"
Importance: High

Hi Folks,
The Services are in interagency review for a draft handbook on ESA section 7 consultation. Please let me know if you have any comments by first thing on Nov. 9.

Thanks!

Mindy Eisenberg
Associate Director, Oceans, Wetlands & Communities Division
Office of Wetlands, Oceans and Watersheds
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW, mailcode 4504T
Washington, DC 20460

From: Bravo, Antonio <Bravo.Antonio@epa.gov>
Sent: Monday, November 02, 2020 8:36 AM
To: Wall, Tom <Wall.Tom@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>
Subject: FW: OW review by noon Nov 9 Interagency ESA Review: "Endangered Species Act Draft Consultation Handbook: Procedures for Conducting Section 7 Consultations and Conferences"
Importance: High

Can you let me know if we have any comments on this.

I quickly scanned and only found mention of water quality on pp. 77, 79, and 112 of the Draft Handbook (first doc). Nothing specific to our program(s) though.

Mindy, the Draft Handbook references 404 on pp. 11 and 26, but I didn't see anything out of the ordinary.

I will try close this out by Noon.

Thanks.

Antonio

From: Ruf, Christine <Ruf.Christine@epa.gov>
Sent: Friday, October 30, 2020 12:41 PM
To: Bravo, Antonio <Bravo.Antonio@epa.gov>; Gilbertson, Sue <gilbertson.sue@epa.gov>; Stebe, Katherine <Stebe.Katherine@epa.gov>; Weyer, Erica <weyer.eric@epa.gov>
Cc: Flaharty, Stephanie <Flaharty.Stephanie@epa.gov>; Mejias, Melissa <mejias.melissa@epa.gov>; Aguirre, Janita <Aguirre.Janita@epa.gov>
Subject: OW review by noon Nov 9 Interagency ESA Review: "Endangered Species Act Draft Consultation Handbook: Procedures for Conducting Section 7 Consultations and Conferences"
Importance: High

Hi all, please review these two documents by 12 noon, Monday Nov. 9 so we can forward to IO management. Please use redline-strikeout to make suggested text edits, with comments, in both documents. Please also summarize your comments/concerns in an email, approved at the OD level. Note there is a briefing next Friday, Nov. 6. Thanks! Christine

From: InteragencyReviews <InteragencyReviews@epa.gov>
Sent: Friday, October 30, 2020 11:59 AM
To: RSC Core <RSC_Core@epa.gov>; RSC Regions Core <RSC_Regions_Core@epa.gov>
Cc: Garretson, Eleanor <Garretson.Eleanor@epa.gov>; Marshall, Tom <marshall.tom@epa.gov>; Jefferson, Tricia <Jefferson.Tricia@epa.gov>; Atcherson, Aileen <Atcherson.Aileen@epa.gov>; Banks, Dawn <Banks.Dawn@epa.gov>; Barger, Cindy <Barger.Cindy@epa.gov>; Corrales, Mark <Corrales.Mark@epa.gov>; Grossarth, Shari <Grossarth.Shari@epa.gov>; Hardy, Michael <Hardy.Michael@epa.gov>; Harris, Monisha <harris.monisha@epa.gov>; Hessert, Aimee <Hessert.Aimee@epa.gov>; InteragencyReviews <InteragencyReviews@epa.gov>; Lamson, Amy <Lamson.Amy@epa.gov>; Leff, Karin <Leff.Karin@epa.gov>; Lousberg, Macara <Lousberg.Macara@epa.gov>; Nickerson, William <Nickerson.William@epa.gov>; Ruf, Christine <Ruf.Christine@epa.gov>; Schaedle, Candi <Schaedle.Candi@epa.gov>; Tyree, Robin <Tyree.Robin@epa.gov>
Subject: RSC Distribution: Action Item - DOI/FWS & DOC/NOAA/NMFS Handbook and NOA for EPA Review: "Endangered Species Act Draft Consultation Handbook: Procedures for Conducting Section 7 Consultations and Conferences"

Briefing Friday, 11/06, comments due by COB Thursday, 11/12.

These interagency review documents are deliberative and pre-decisional and may not be shared or discussed with anyone outside of the Executive Branch.

Attached for EO 12866 / 13563 interagency review and comment are a draft handbook and associated draft *Federal Register* notice of availability from DOI/FWS & DOC/NOAA/NMFS entitled “**Endangered Species Act Draft Consultation Handbook: Procedures for Conducting Section 7 Consultations and Conferences.**”

Summary: Section 7(a)(2) states that each Federal action agency shall, in consultation with the Secretary [of DOI and DOC], insure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat. Authority to administer the ESA has been delegated by the Secretary of the Interior to the FWS Director and by the Secretary of Commerce to the NMFS Assistant Administrator. The regulations governing interagency cooperation are at Title 50, part 402, which were revised in 2019. This action updates the Section 7 Handbook, which provides details for the consultation process, including action agency responsibilities and specific consultation procedures.

Note: FWS and NMFS staff will provide interagency reviewers with an overview of the revisions:

Friday, 11/06/2020 at 10:00 EST

Participant Dial-In: Ex. 6 Personal Privacy (PP)

Participant Code: Ex. 6 Personal Privacy (PP)

Process Notes / Tips for Responding

There is no strict response format, however, to facilitate compilation of the Agency's comments, please:

- use “Track Changes” (i.e., redline/strikeout and comment ‘bubbles’) to directly insert comments into the file(s) and
- for general comments/concerns/observations, add them to a new blank page inserted at the beginning of the file, or provide in a separate MSWord file.

Comments do not require documented management approval, but should represent the views of the commenting AA- / RA-ship.

Typically, an AA- / RA-ship with subject matter expertise takes the lead and coordinates preparation of the Agency's response when an interagency review gives rise to extensive comments, or comments from multiple offices. If no office volunteers to take the lead, OP will likely call on the commenting offices to work together to reconcile and compile their comments in order to ensure the commenters' input is not misinterpreted or misconstrued.

If the Agency has a big stake in the outcome, or its response is extensive and/or potentially controversial, the lead office may choose to draft a transmittal note for OP to use when submitting the comments to OMB.

Please submit comments via your Regulatory Steering Committee (RSC) Representative, or Regional Regulatory Contact (RRC) who should send them to the proxy mailbox, InteragencyReviews@epa.gov. When submitting your comments, please also include your RSC or RRC alternate(s) to help ensure prompt receipt and attention.

Stuart Miles-McLean | Interagency Review Coordinator

Office of Regulatory Policy & Management | Office of Policy | Office of the Administrator

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